



JUAN “J.J.” PEÑA  
JUSTICE OF THE PEACE  
PRECINCT 3, PLACE 2

## SMALL CLAIMS PACKET

**THE CLERKS OF THIS COURT CANNOT GIVE LEGAL ADVICE.** They are prohibited by state law from providing any legal advice (Sec. 81.102 of Texas Government Code). If you have any other questions, you should seek the advice of an attorney or legal aid.

### INSTRUCTIONS AND INFORMATION FOR FILING A JUSTICE COURT SUIT

The amount of money which may be sued for may not exceed the limit of the Court which is **\$20,000.00.** (T.R.C.P RULE 500-507)

**PLEASE SUBMIT THE FOLLOWING (forms must be filled out in blue ink):**

- 1 ORIGINAL PETITION WITH 2 COPIES OF PETITION
- ORIGINAL SERVICEMEMBER’S CIVIL RELIEF ACT FOR ALL CASES
- JUSTICE COURT CIVIL CASE INFORMATION SHEET
- 1 COPY OF CERTIFIED LETTER
- 1 COPY OF RETURN RECEIPT OF LETTER
- MONEY ORDER OR CASHIER’S CHECK MADE PAYABLE TO: **JUSTICE COURT PCT. 3, PL. 2**  
**(FORM OF REMITTANCE IS UP TO COURT’S DISCRETION)**

ANY OTHER DOCUMENTS PERTAINING TO YOUR CASE MAY BE BROUGHT TO COURT THE DAY OF THE HEARING.

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### TYPE OF CASES AUTHORIZED IN JUSTICE COURT

- A. Debt Claim Case** – A lawsuit brought to recover a debt by an assignee of claim, a debt collector or collection agency, financial institution, or a person or entity primarily engaged in the business of lending money at interest
- B. Small Claims Case** – A lawsuit brought for the recovery of money damages, civil penalties, personal property, or other relief allowed by law.
- C. Forcible Entry and Detainer (Eviction) Cases** – A lawsuit to recover possession of property
- D. Repair & Remedy Cases** – A lawsuit filed by a residential tenant under chapter 92, Subchapter B of The Texas Property Code to enforce the landlord’s duty to repair or remedy a condition materially affecting the physical health or safety of an ordinary tenant.

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### TYPE OF CASES PROHIBITED

- A. Suit by state to recover penalty, forfeiture or escheat
- B. Divorce
- C. Slander
- D. Foreclosure lien on land
- E. Suit on trial of title to land
- F. By assignee of claim
- G. Person primarily engaged in business of lending money
- H. Collection agency or agent

**FEE SCHEDULE** (*Fees are subject to change.*)

<b>CIVIL CASES</b>	<b>For a Jury trial (please provide the additional):</b>
<b>\$46.00 Filing Fee</b>	<b>\$22.00 Jury Fee</b>
<b>\$100.00 Service Fee (per person)</b>	
<b>\$146.00 TOTAL FEES</b>	

**PLEADINGS**

Must be in Writing for Petition and answer all others formal. Pleadings may be informal, except Motion to change venue.

**As a general rule, a civil suit in justice court must be brought in the county and precinct in which one or more defendants reside. Justice Court Rules of Practice/Civil Procedure, Rule 502.4**

In all civil suits, the defendant has the right to be sued in the county and precinct in which he/she resides. There are some exceptions to this rule. Should you be filing this suit in this county and precinct because it is convenient to you, there may be a motion by the defendant to transfer venue (request that this suit be transferred to some other county and precinct). Should there be a motion to transfer venue, please be advised that after that motion is made, a hearing shall be set 45 days after motion is filed. Before filing the suit, you need to notify the defendant by certified mail that he/she has ten (10) days in which to contact you concerning the claim, for Repair & Remedy cases 7 days. If the defendant fails to contact you or satisfy the claim you would file on the eleventh day after the defendant signs the certified slip. It is your burden as a plaintiff to prove your case. It is necessary for you to sue the defendant in his/her property legal capacity of which there is typically three.

They are as follows:

- **INDIVIDUAL**-Where an individual is personally responsible to you for damages he/she may have caused you.
- **PROPRIETOR OR PARTNERSHIP**-A business that is not incorporated, but has filed an assumed name with the County Clerk in the county of his/her business. You may check with the County Clerk's office in the county of the business to determine who the owner(s) is (are).
- **CORPORATION** - A business that is incorporated. It is necessary to know the Individual's name that is able to accept service on behalf of the corporation. The Authorized agent for service would be listed with the Secretary of State. This information May be obtained by calling 1-512-463-5555 or 1-800-252-55555 or <http://www.sos.state.tx.us/>

If the defendant upon whom you are filing resides outside of Hidalgo County. Call the county courthouse where the defendant is to be served. Ask for the name of the Constable or Sheriff in the precinct where the defendant is to be served. Call the Constable or Sheriff and find out the SERVICE FEE for serving a citation. Obtain their mailing address. Obtain a money order and make it payable to the Constable or Sheriff who will be serving the citation and bring it with you when you file your suit.

Once you have filed the petition stating the facts and circumstances of your suit, a citation along with a copy of the petition will be served to the defendant. The Constable or Sheriff will serve these papers and the Court must wait until they have been returned before further action may be taken. On Repair & Remedy cases a hearing will be set within 7-10 days from date defendant was served.

The defendant(s) in your suit is/are commanded to answer to the Court in person or in writing on the Monday following the expiration of ten (10) days from the date the citation is served upon him/her. THIS IS NOT THE TRIAL DATE.

If the defendant answers the suit, the Court will notify both parties by mail as to trial date. If either party wants a continuance (re-setting of hearing date), we recommend that it be requested at least one (1) week prior to the trial date.

Should you receive judgment, the Court DOES NOT COLLECT THE JUDGMENT FOR YOU NOR CAN WE FORCE THE DEFENDANT TO PAY THE JUDGMENT.

However, you may request an Abstract of Judgment, Writ of Execution, Writ of Garnishment, or Turnover Order to help you in collection of the judgment.

- **ABSTRACT OF JUDGMENT** – Puts a lien on any real estate property the defendant may own in a particular county where the abstract is recorded. The abstract is only good in the county or counties where it is recorded. This can be obtained ten (10) days after the date of the judgment is signed.
- **WRIT OF EXECUTION** – Allows a Constable or Sheriff to try to seize non-exempt property from the defendant. The property is seized, an auction is held and the proceeds from the sale satisfy the judgment. This can be obtained (30) days after the date the judgment is signed.
- **WRIT OF GARNISHMENT** – This proceeding is a separate suit wherein you are the plaintiff and the defendant's bank becomes the defendant (you need to know the name of the bank and the bank account number). You are actually suing the bank in which the original defendant has his/her bank account. This can be obtained thirty (30) days after the judgment is signed. AN ATTORNEY SHOULD BE CONSULTED FOR THE PROCESS.
- **TURNOVER ORDER** – This proceeding is available after the judgment is signed and its purpose is to provide a court-ordered means of reaching property which cannot easily be reached through ordinary legal process and which is not exempt from attachment, execution, etc. AN ATTORNEY SHOULD BE CONSULTED FOR THIS PROCESS.

You may have other remedies available, but they are more complicated and are not covered here. Our clerks will try to answer any PROCEDURAL question(s) you may have.

**THESE INSTRUCTIONS ARE A BROAD INTERPRETATION OF THE LAWS THAT APPLY TO THE JUSTICE COURT. ANY LEGAL QUESTIONS OR LEGAL INTERPRETATIONS SHOULD BE BASED UPON YOUR OWN RESEARCH OF THE MATTER OR THE ADVICE OF YOUR ATTORNEY.**

**IT IS NOT A GUARANTEE THAT YOUR MONEY WILL BE COLLECTED AND THE COURT CANNOT FORCE THE DEFENDANT TO PAY!**

# JUSTICE COURT CIVIL CASE INFORMATION SHEET (4/13)

**CAUSE NUMBER (FOR CLERK USE ONLY):** \_\_\_\_\_

**STYLED** \_\_\_\_\_  
 (e.g., John Smith v. All American Insurance Co; In re Mary Ann Jones; In the Matter of the Estate of George Jackson)

A civil case information sheet must be completed and submitted when an original petition is filed to initiate a new suit. The information should be the best available at the time of filing. This sheet, required by Rule of Civil Procedure 502, is intended to collect information that will be used for statistical purposes only. It neither replaces nor supplements the filings or service of pleading or other documents as required by law or rule. The sheet does not constitute a discovery request, response, or supplementation, and it is not admissible at trial.

1. Contact information for person completing case information sheet:	2. Names of parties in case:
<p>Name: _____ Telephone: _____</p> <p>Address: _____ Fax: _____</p> <p>City/State/Zip: _____ State Bar No: _____</p> <p>Email: _____</p> <p>Signature: _____</p>	<p>Plaintiff(s): _____</p> <p>_____</p> <p>Defendant(s): _____</p> <p>_____</p> <p>_____</p> <p>[Attach additional page as necessary to list all parties]</p>
3. Indicate case type, or identify the most important issue in the case ( <i>select only 1</i> ):	
<p><input type="checkbox"/> <b>Debt Claim:</b> A debt claim case is a lawsuit brought to recover a debt by an assignee of a claim, a debt collector or collection agency, a financial institution, or a person or entity primarily engaged in the business of lending money at interest. The claim can be for no more than \$20,000, excluding statutory interest and court costs but including attorney fees, if any.</p>	<p><input type="checkbox"/> <b>Eviction:</b> An eviction case is a lawsuit brought to recover possession of real property, often by a landlord against a tenant. A claim for rent may be joined with an eviction case if the amount of rent due and unpaid is not more than \$20,000, excluding statutory interest and court costs but including attorney fees, if any.</p>
<p><input type="checkbox"/> <b>Repair and Remedy:</b> A repair and remedy case is a lawsuit filed by a residential tenant under Chapter 92, Subchapter B of the Texas Property Code to enforce the landlord's duty to repair or remedy a condition materially affecting the physical health or safety of an ordinary tenant. The relief sought can be for no more than \$20,000, excluding statutory interest and court costs but including attorney fees, if any.</p>	<p><input type="checkbox"/> <b>Small Claims:</b> A small claims case is a lawsuit brought for the recovery of money damages, civil penalties, personal property, or other relief allowed by law. The claim can be for no more than \$20,000, excluding statutory interest and court costs but including attorney fees, if any.</p>

CAUSE NO. \_\_\_\_\_

\_\_\_\_\_  
PLAINTIFF

v.

\_\_\_\_\_  
DEFENDANT

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§  
§  
§  
§  
§

IN THE JUSTICE COURT

PRECINCT NO. 3, PLACE 2

HIDALGO COUNTY, TEXAS

**PETITION: SMALL CLAIMS CASE**

**Defendant(s) address:** \_\_\_\_\_  
\_\_\_\_\_

**COMPLAINT:** The basis for the claim which entitles Plaintiff to seek relief against Defendant is: \_\_\_\_\_

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

**RELIEF:** Plaintiff seeks:  damages in the amount of \$\_\_\_\_\_,  return of personal property as described as follows (be specific): \_\_\_\_\_, which has a value of \$\_\_\_\_\_. Additionally, Plaintiff seeks the following:

\_\_\_\_\_  
\_\_\_\_\_

**SERVICE OF CITATION:** Service is requested on Defendant(s) by:  personal service at home or work,  registered mail,  certified mail, return receipt requested. If required, Plaintiff requests alternative service as allowed by the Texas Rules of Civil Procedure. Other addresses where Defendant(s) may be served are: \_\_\_\_\_

\_\_\_\_\_  
\_\_\_\_\_

I hereby request a jury trial. The fee is \$22 and must be paid at least 14 days before trial.

I hereby consent for the answer and any other motions or pleadings to be sent to my email address as follows: \_\_\_\_\_

\_\_\_\_\_  
Plaintiff's Printed Name

\_\_\_\_\_  
Signature - Plaintiff or Plaintiff's Attorney

**Defendant's Information** (if known):

Date of birth: \_\_\_\_\_

Last three digits of Driver License: \_\_\_\_\_

Last three digits of Soc. Sec. No.: \_\_\_\_\_

Phone No.: \_\_\_\_\_

\_\_\_\_\_  
Address of Plaintiff or Plaintiff's Attorney

\_\_\_\_\_  
City                      State                      Zip

\_\_\_\_\_  
Phone No. - Plaintiff or Plaintiff's Attorney

\_\_\_\_\_  
Fax No. - Plaintiff or Plaintiff's Attorney

Cause No. \_\_\_\_\_

**IN THE JUSTICE COURT, PRECINT NO. 3, PLACE 2, COUNTY OF HIDALGO, TEXAS**

\_\_\_\_\_  
Plaintiff(s) vs. \_\_\_\_\_  
Defendant(s)

**AFFIDAVIT OF MILITARY STATUS OF DEFENDANT(S)**

Before me the undersigned notary or clerk of the Justice Court, on this day personally appeared the undersigned affiant whose identity is known to me. After I administered an oath to such affiant, he or she upon oath and under penalty of perjury (fine and/or up to one year in jail), stated the following:

My name is (*please print*) \_\_\_\_\_, I am (*check one*)  the Plaintiff or  an authorized agent of the Plaintiff in the case described at the top of this page. I am capable of making this affidavit. The facts stated in the affidavit are within my personal knowledge and are true and I am capable of making this affidavit. The facts stated in the affidavit are within my personal knowledge and are true and correct.

(*check or fill in as applicable*)

1. No Defendant in this case is on active duty in the U.S. military (Army, Navy, Air Force, Marines, Coast Guard or National Guard). The facts on which I base my conclusion are as follows: \_\_\_\_\_  
\_\_\_\_\_

2. Defendant (*insert name(s)*) \_\_\_\_\_  
\_\_\_\_\_ is on active duty in the U.S. military.

3. The Defendant named in paragraph 2 above  has or  has not been deployed by the U.S. military to a foreign country or been given orders for change of permanent duty station.

4. Plaintiff and the undersigned (if the undersigned is acting agent of Plaintiff) are not able to determine whether any Defendant is with the U.S. military.

5. Plaintiff and the undersigned (if the undersigned is acting as an agent of Plaintiff) are not able to determine whether any Defendant who is in the U.S. military has been deployed to a foreign country or been given orders for change of permanent duty station.

6. Defendant [*insert name(s)*] \_\_\_\_\_  
has signed, while on active duty, a separate written waiver or a written lease containing a waiver of his or her rights under the U.S. Service Members Civil Relief Act of 2003.

\_\_\_\_\_  
Signature of Affiant

SWORN TO and SUBSCRIBED before me on this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_.

\_\_\_\_\_  
Signature (*check one*)  
 Notary Public in and for the State of Texas or  
 Clerk of the Justice Court